REMARKS

Claims 26 – 31, 33, 50 – 52, and 55 are pending in this application. Claims 32, 53, and 55 have been canceled. Claim 26 has been amended. Support for the amendment to claim 26 may be found, for example, in original claim 32. Claims 50 and 52 have been amended. Support for the amendment to claims 50 and 52 may be found, for example, in original claim 32.

CLAIM REJECTIONS – 35 USC §103

Claims 26 – 31 and 50 – 55 have been rejected under 35 USC 103(a) as being unpatentable over Brown (US Patent No. 5,307,263, hereinafter "Brown"), in view of Levin et al. (US Patent No. 5,724,580, hereinafter "Levin"), and further in view of Cuypers (US Patent No. 5,396,886, hereinafter "Cuypers"). This rejection is respectfully traversed.

In respect to claims 26 – 31, 33, and 54, claim 26 has been amended to recite "wherein the test strip reader is operable for reading a second type of test strip carrying a second sample of biological fluid or tissue and obtaining health-related test results based on the second sample of biological tissue or fluid and calibration data specific to the second type of test strip, further comprising: a second memory reading device functionally connected to the test strip reader and operable for reading calibration data from a second memory device corresponding to the second type of test strip." As stated by the Examiner on page 7 of the Office Action, the "prior art does not fairly suggest or teach a test strip reader for reading a second type of test strip carrying a second sample … and obtaining health related test results based on the sample." Therefore, claim 26 is patentable over the combination. Claims 27 – 31, 33, and 54 are patentable at least by virtue of their dependence on claim 26.

Claims 50 and 52 are allowable for the same reason as claim 26, since they recite a second sample to be tested. Claim 51 and 55 are allowable at least by virtue of their dependence on claims 50 and 52, respectively. Claims 32, 53, and 55 have been canceled. Reconsideration and withdrawal is respectfully requested.

Furthermore, the Examiner has failed to address claims 50 – 55 in the Office Action in a manner that would allow Applicants to respond on the merits. The subject matter of at least some of

these claims is believed to be patentable based on the Examiner's statement of allowable subject matter on page 7 of the Office Action. Therefore, **the finality of the next action is precluded**. Indeed, although the Summary of the Office Action indicates that claims 50 – 55 stand rejected, the Detailed Action omits any explanation of how any cited art anticipates [or renders obvious] these claims. Applicants respectfully submit that this omission amounts to a failure to articulate a prima facie case of unpatentablity, and the burden to rebut this "rejection" has not yet shifted to the Applicants. Consequently, a next Office Action rejecting claims 50 – 55 cannot properly be made final since only then would Applicants be obligated to rebut the rejection, presuming that such an Office Action sets forth a prima facie case. (See MPEP § 706.07(a))

In view of the above amendments and remarks, Applicants believe the pending application is in condition for allowance. Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-1848, under Order No. 023134.0128D1US from which the undersigned is authorized to draw.

Respectfully submitted,
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Dated: March 16, 2009

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